

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERT W. MAUTHE, M.D., P.C. a	:	
Pennsylvania corporation, individually and as the	:	
representative of a class of similarly-situated	:	
persons,	:	NO. 17-cv-2154-LS
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
GAITHER TECHNOLOGIES STC, LLC, and	:	
MINGLE ANALYTICS, INC.,	:	
	:	
Defendants.	:	

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**MOTION BY ECKERT SEAMANS CHERIN & MELLOTT, LLC, COUNSEL FOR  
DEFENDANT MINGLE ANALYTICS, INC., TO WITHDRAW APPEARANCE**

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Albert G. Bixler, Keith E. Smith and the law firm of Eckert Seamans Cherin & Mellott, LLC (collectively “Eckert Seamans”), hereby file the within Motion to Withdraw Appearance.

In support of its motion, Eckert Seamans avers as follows:

1. Eckert Seamans is the counsel of record for defendant Mingle Analytics, Inc. (“Mingle”) in these proceedings by virtue of having filed a stipulation to extend time for Mingle to answer or plead to plaintiff’s Complaint.
2. The undersigned counsel was approached by referring counsel in Portland, Maine, on May 31, 2017, inquiring as to whether Eckert Seamans could represent Mingle in this putative class action.
3. After checking conflicts, the undersigned sent referring counsel, on behalf of Mingle, an engagement letter which required payment of a retainer in order to be effective.

4. On June 2, 2017, referring counsel confirmed that Mingle had accepted our engagement and forwarded the engagement letter executed by Mingle. No retainer was received.

5. However, since Mingle's deadline to respond to the Complaint was June 5, 2017, the undersigned felt compelled – notwithstanding the lack of payment – to protect Mingle's interest by seeking, obtaining and filing a stipulation extending the time for Mingle to respond to plaintiff's Complaint to July 5, 2017, which was entered by the Court on June 5, 2017.

6. No further activity has occurred in this case.

7. Despite repeated requests, Mingle has failed to pay the retainer required to make Eckert Seamans' engagement effective.

8. By emails dated June 12, June 14, and June 20, 2017, the undersigned requested an original, signed engagement letter and payment of the agreed-upon retainer.

9. Neither has been received.

10. Further, Eckert Seamans has requested information needed to defend this matter, which has never been received.

11. Eckert Seamans respectfully requests leave to withdraw its appearance on behalf of Mingle as a result of (a) Mingle's failure to pay the agreed-upon retainer and (b) Mingle's failure to provide information needed to defend this matter.

12. This case is not on any trial list, no discovery has been served, and no party will be prejudiced if this Motion is granted. The Complaint was only recently filed on May 10, 2017, and the parties entered a stipulation granting Mingle an extension until July 5, 2017, to respond to the Complaint.

13. This motion is being served on Mingle by both Certified Mail, Return Receipt Requested, and First Class Mail.

WHEREFORE, Eckert Seamans respectfully requests that this Court enter an Order granting it leave to withdraw its appearance on behalf of defendant Mingle Analytics, Inc.

ECKERT SEAMANS CHERIN  
& MELLOTT, LLC

By: /s/ Albert G. Bixler

Albert G. Bixler  
Pa. Bar No. 45639  
Keith E. Smith  
Pa. Bar No. 67384  
Two Liberty Place  
50 South 16<sup>th</sup> Street, 22<sup>nd</sup> Floor  
Philadelphia, PA 19102  
Telephone: 215-851-8412  
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Dated: June 26, 2017

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERT W. MAUTHE, M.D., P.C. a	:	
Pennsylvania corporation, individually and as the	:	
representative of a class of similarly-situated	:	
persons,	:	NO. 17-cv-2154-LS
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
GAITHER TECHNOLOGIES STC, LLC, and	:	
MINGLE ANALYTICS, INC.,	:	
	:	
Defendants.	:	

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**MEMORANDUM OF LAW IN SUPPORT OF THE MOTION BY ECKERT SEAMANS  
CHERIN & MELLOTT, LLC, COUNSEL FOR DEFENDANT MINGLE ANALYTICS,  
INC., TO WITHDRAW APPEARANCE**

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Albert G. Bixler, Keith E. Smith and the law firm of Eckert Seamans Cherin & Mellott, LLC (collectively “Eckert Seamans”), move to withdraw their appearance as counsel for defendant Mingle Analytics, Inc. (“Mingle”).

Eckert Seamans is the counsel of record for Mingle in these proceedings by virtue of having filed a stipulation to extend time for Mingle to answer or plead to plaintiff’s Complaint. The appearance of Albert Bixler was entered automatically upon filing of that Stipulation. Keith Smith entered his appearance on June 6, 2017. Because Mingle has refused to pay the retainer required under its engagement letter with Eckert Seamans, and because it has not provided information needed by Eckert Seamans to defend this action, Eckert Seamans is forced to move to withdraw as counsel for Mingle.

### **BACKGROUND**

The undersigned counsel was approached by referring counsel in Portland, Maine, on May 31, 2017, inquiring as to whether Eckert Seamans could represent Mingle in this putative class action. After checking conflicts, the undersigned sent referring counsel, on behalf of Mingle, an engagement letter which required payment of a retainer in order to be effective.

On June 2, 2017, referring counsel confirmed that Mingle had accepted the terms of the engagement letter and forwarded a copy of the engagement letter executed by Mingle. However, no retainer was received.

However, since Mingle's deadline to respond to the Complaint was June 5, 2017, the undersigned felt compelled – notwithstanding the lack of the retainer – to protect Mingle's interest by seeking an extension of time to respond to the Complaint and filing a stipulation memorializing that extension. That Stipulation was entered by the Court on June 5, 2017. No further activity has occurred in this case.

Despite repeated requests, Mingle has failed to pay the retainer required to make Eckert Seamans' engagement effective. By emails dated June 12, June 14, and June 20, 2017, the undersigned requested an original, signed engagement letter and payment of the agreed-upon retainer. Neither has been received. Further, Eckert Seamans has requested information needed to defend this matter, which has never been received.

Accordingly, Eckert Seamans respectfully requests leave to withdraw its appearance on behalf of Mingle as a result of (a) Mingle's failure to pay the agreed-upon retainer and (b) Mingle's failure to provide information needed to defend this matter. This case is not on any trial list, no discovery has been served, and no party will be prejudiced if this Motion is granted.

The Complaint was only recently filed on May 10, 2017, and the parties entered a stipulation granting Mingle an extension until July 5, 2017, to respond to the Complaint.

This motion is being served on Mingle by both Certified Mail, Return Receipt Requested, and First Class Mail.

Respectfully submitted,

ECKERT SEAMANS CHERIN  
& MELLOTT, LLC

June 26, 2017

By: /s/ Albert G. Bixler

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**CERTIFICATE OF SERVICE**

I hereby certify that I caused to be served a true and correct copy of the foregoing Motion by Counsel for Defendant Mingle Analytics, Inc. to Withdraw Appearance on this 26th day of June, as follows:

Mingle Analytics, Inc.  
Market Square  
24B Main Street  
South Paris, ME 04281

(Certified Mail-Return Receipt Requested & First Class United States Mail)

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/s/ Albert G. Bixler

Albert G. Bixler